

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**STEIN & NIEPORENT LLP**

David Stein (DS 2119)  
1441 Broadway, Suite 6090  
New York, New York 10018  
(212) 308-3444

Attorneys for Defendant

Rasheta Bunting, Individually and as the  
representative of a class of similarly  
situated persons,

Plaintiff,

- vs. -

Hem Design Studio Inc.,

Defendant.

DOCKET NO. 22-cv-1742  
(LDH) (VMS)

**ANSWER**

Defendant Hem Design Studio Inc., by and through its undersigned attorneys,  
answers the complaint of plaintiff Rasheta Bunting as follows:

**INTRODUCTION**

1. This paragraph contains no allegations about defendant that need be admitted or denied.
2. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph relating to plaintiff, and therefore denies same.
3. This paragraph contains no allegations about defendant that need be admitted or denied.
4. Defendant admits that plaintiff purports to assert those claims but denies that the claims have merit.

5. Denied.
6. Denied.
7. Denied.
8. Denied.
9. This paragraph contains no allegations about defendant that need be admitted or denied. To the extent a response is required, defendant admits that such laws exist but deny that the vague description of them by plaintiff represents a precise description of their requirements.
10. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph relating to plaintiff, and therefore denies same. The remaining allegations of this paragraph are denied, and defendant specifically denies that any such class exists.
11. Defendant admits that plaintiff seeks the specified relief but denies that plaintiff is entitled to it. The remaining allegations of this paragraph are denied, and defendant specifically denies that any such class exists.

#### **JURISDICTION AND VENUE**

12. Admitted that the court has jurisdiction, but denies all allegations regarding the amount in controversy..
13. This paragraph contains legal argument rather than factual allegations which need be admitted or denied.
14. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph relating to

plaintiff, and therefore denies same. The remaining allegations of this paragraph are denied.

15. Defendant admits that it is registered as a foreign corporation in New York and conducts business in New York. The remaining allegations of this paragraph are denied.

#### **THE PARTIES**

16. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.
17. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph relating to plaintiff, and therefore denies same. The remaining allegations of this paragraph are denied.
18. Admitted.
19. Admitted.
20. Admitted.
21. Admitted that Hem Showrooms sell furniture and related goods. The remaining allegations of this paragraph are denied.
22. Denied.

#### **NATURE OF THE CASE**

23. This paragraph contains no allegations about defendant that need be admitted or denied.

24. This paragraph contains no allegations about defendant that need be admitted or denied. To the extent a response is required, defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.
25. This paragraph contains no allegations about defendant that need be admitted or denied. To the extent a response is required, defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.
26. This paragraph contains no allegations about defendant that need be admitted or denied. To the extent a response is required, defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.
27. Defendant admits that the specified guidelines are published, but denies that they are universally followed or that following them is required.

**FACTUAL ALLEGATIONS**

28. Admitted.
29. Denied.
30. Admitted, except that any implication that the website is owned, controlled, or operated by defendant is denied.
31. Admitted.
32. Denied.
33. Denied.
34. Defendant denies that it owns, controls, or operates the website, but also

denies the allegations relating to the website.

35. Defendant denies that it owns, controls, or operates the website, but also denies the allegations relating to the website.
36. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph relating to plaintiff, and therefore denies same. The remaining allegations of this paragraph are denied, and specifically defendant denies that it owns, controls, or operates the website.
37. Defendant denies that it owns, controls, or operates the website, but also denies the allegations relating to the website.
38. Defendant denies that it owns, controls, or operates the website, but also denies the allegations relating to the website.
39. Defendant denies that it owns, controls, or operates the website, but also denies the allegations relating to the website.
40. Defendant denies that it owns, controls, or operates the website, but also denies the allegations relating to the website.
41. Defendant denies that it owns, controls, or operates the website, but also denies the allegations relating to the website.
42. Defendant denies that it owns, controls, or operates the website, but also denies the allegations relating to the website.
43. Defendant denies that it owns, controls, or operates the website, but also denies the allegations relating to the website.
44. Defendant is without knowledge or information sufficient to form an

opinion as to the truth of the allegations of this paragraph relating to plaintiff, and therefore denies same. The remaining allegations of this paragraph are denied.

45. Denied.

46. Denied.

47. Denied.

48. Denied.

49. Denied.

**CLASS ACTION ALLEGATIONS**

50. Admitted that plaintiff seeks to certify such a class. Denied that plaintiff is entitled to do so.

51. Admitted that plaintiff seeks to certify such a subclass. Denied that plaintiff is entitled to do so.

52. This paragraph contains no allegations about defendant that need be admitted or denied. To the extent a response is required, defendant denies that plaintiff has accurately characterized the putative class.

53. Denied.

54. Admitted that the first two of the cited questions are common; denied that the third or fourth ones are.

55. Denied.

56. Denied.

57. Denied.

58. Denied.

59. This paragraph contains no allegations that need be admitted or denied.

**COUNT I**  
**(VIOLATIONS OF THE ADA, 42 U.S.C. § 12181 *et seq.*)**

60. Defendant repeats, reiterates, and incorporates by reference its responses to all allegations in all preceding paragraphs 1-59 as if fully set forth herein.

61. Admitted that plaintiff has accurately, though only partially, quoted a statute.

62. Admitted that Hem Showrooms are a public accommodation. The remaining allegations of this paragraph are denied.

63. This paragraph contains legal argument that need not be admitted or denied.

64. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.

65. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.

66. Admitted that plaintiff has accurately, though only partially, quoted a statute.

67. Admitted that plaintiff has accurately, though only partially, quoted a statute.

68. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.

69. Denied.

70. Denied.

- 71. Denied.
- 72. Denied.
- 73. Denied.
- 74. Denied.
- 75. Admitted that plaintiff seeks such relief; denied that plaintiff is entitled to it.

**COUNT II**  
**(VIOLATIONS OF THE NYSHRL, N.Y. Exec. Law Article 15 (Executive Law § 292 et seq.))**

- 76. Defendant repeats, reiterates, and incorporates by reference its responses to all allegations in all preceding paragraphs 1-75 as if fully set forth herein.
- 77. Admitted that plaintiff has accurately, though only partially, quoted a statute.
- 78. Admitted that Hem Showrooms are a public accommodation. The remaining allegations of this paragraph are denied.
- 79. This paragraph contains legal argument that need not be admitted or denied.
- 80. Denied.
- 81. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.
- 82. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.
- 83. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.



- 84. Denied.
- 85. Denied.
- 86. Denied.
- 87. Denied.
- 88. Denied.
- 89. Denied.
- 90. Admitted that plaintiff seeks such relief; denied that plaintiff is entitled to it.

**COUNT III**

**(VIOLATIONS OF THE NYSCRL, NY CLS Civ R Article 4 (CLS Civ R § 40 et seq.)**

- 91. Defendant repeats, reiterates, and incorporates by reference its responses to all allegations in all preceding paragraphs 1-90 as if fully set forth herein.
- 92. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.
- 93. Admitted that plaintiff has accurately, though only partially, quoted a statute.
- 94. Admitted that plaintiff has accurately, though only partially, quoted a statute.
- 95. Admitted that Hem Showrooms are a public accommodation. The remaining allegations of this paragraph are denied.
- 96. This paragraph calls for legal conclusions, rather than states facts which need be admitted or denied. To the extent a response is required, the allegations are denied. In particular, defendant denies that it owns, operates, or controls the website.

97. Denied.

98. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.

99. Admitted that plaintiff has accurately, though only partially, quoted a statute.

100. Admitted that plaintiff has accurately, though only partially, quoted a statute.

101. Denied.

102. Denied.

103. Denied.

#### **COUNT IV**

#### **(VIOLATIONS OF THE NYCHRL, N.Y.C. Administrative Code § 8-102 et seq.)**

104. Defendant repeats, reiterates, and incorporates by reference its responses to all allegations in all preceding paragraphs 1-103 as if fully set forth herein.

105. Admitted that plaintiff has accurately, though only partially, quoted a statute.

106. Admitted that Hem Showrooms are a public accommodation. The remaining allegations of this paragraph are denied.

107. This paragraph contains legal argument that need not be admitted or denied. To the extent a response is required, defendant denies that it owns, operates, or controls the website.

108. Denied.

109. Denied.

110. Denied.

111. Denied.

112. Denied.

113. Denied.

114. Denied.

115. Admitted that plaintiff seeks such relief; denied that plaintiff is entitled to it.

**COUNT V**  
**(DECLARATORY RELIEF)**

116. Defendant repeats, reiterates, and incorporates by reference its responses to all allegations in all preceding paragraphs 1-115 as if fully set forth herein.

117. Admitted.

118. Denied.

**AFFIRMATIVE DEFENSES**

1. Plaintiff lacks standing to bring these claims.
2. Plaintiff's allegations fail to state a claim upon which relief may be granted.
3. Plaintiff's claims are barred by the doctrine of unclean hands.
4. The court should not exercise supplemental jurisdiction over the non-federal claims in this suit.
5. The relief requested by plaintiff would not be readily achievable.
6. Plaintiff was not a bona fide customer of defendant.

7. Plaintiff is barred from recovery by reason of the fact that plaintiff has not sustained any damages whatsoever resulting from the actions or inactions of defendant.
8. Part or all of plaintiff's damages — if any — are the result of plaintiff's failure to mitigate damages.
9. Plaintiff is not entitled to statutory or punitive damages or fines.
10. Plaintiff is unable to satisfy the criteria for maintaining a class action. The potential class and subclasses are not numerous or ascertainable. The questions of law or fact are not common to the potential class or subclasses. The claims of the plaintiff are not typical of the claims of the potential class or subclasses. The interests of the potential class and subclasses will not be fairly and adequately represented. Individual issues predominate over common issues.
11. In addition to the foregoing defenses, Defendant reserves the right to amend its Answer to raise any and all other additional affirmative and other defenses that may become evident during discovery and during any other proceeding in this action or pursue any available counterclaims against Plaintiff as those claims become known during this litigation.

Wherefore, defendant respectfully demands judgment against plaintiff dismissing all counts of the Complaint, and awarding attorneys' fees, costs and disbursements, and such other, further, and different relief as the Court may deem just and proper.

Dated: June 30, 2022



---

David Stein  
STEIN & NIEPORENT LLP  
1441 Broadway, Suite 6090  
New York, New York 10018  
(212) 308-3444

Attorneys for Defendant